THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO. 18143 of 2005

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DATED: 18.08.2005

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Between:

Tupakula Puttalaiah, S/o Puttalaiah, aged about 30myears.

And others

Petitioners

And

1. Nellore Hazarath, S/o Seshaiah, R/o Pallipalem, Padmatipalem, Sangam Mandal, Nellore District, and others.

Respondents

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ORDER:

Heard both sides.

In this Writ Petition, petitioners are seeking a Writ of Mandamus, declaring the

action of the un-official respondents in obtaining the orders in W.P.No. 4133 of 2005, without impleading the petitioners herein, who are proper and necessary parties, as arbitrary and unreasonable and accordingly set aside the orders dated 3.3.2005 made in W.P.No. 4133 of 2005 and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the house-sites belonging to the petitioners to an extent of Ac. 0.03 cents each in S.No. 651 situated at Padamatipalem Village, Sangam Mandal, Nellore District.

Brief facts of the case are that the petitioners are the permanent residents of Padamatipalem Village of Sangam Mandal, Nellore District. As all the petitioners come under below the poverty line, they made applications to the then Mandal Revenue Officer, Sangam Mandal, for grant of house-site pattas and the Mandal Revenue Officer directed the Mandal Revenue Inspector to conduct an enquiry with regard to the eligibility of all the applicants. Accordingly, the Mandal Revenue Inspector, after conducting detailed enquiry submitted a report and based on the report, the Mandal Revenue Officer issued house-site pattas to about 139 persons vide R.C.B. No. 724/89 dated 12.10.1989 assigning an extent of Ac. 00.03 cents of land to each person. As all the beneficiaries belong to weaker section and not in a position to construct pucca houses, all the beneficiaries made an application to the Government requesting for grant of financial assistance for the purpose of constructing houses in their respective plots. Thereupon, the Government considered the case of some of the beneficiaries and granted financial assistance, but in so far as the petitioners' cases are concerned, they have not been materialized. While that being so, taking advantage of the fact that the assigned lands were kept vacant and the unofficial respondents herein, who wanted to grab the land, approached this court by filing Writ Petition No. 4133 of 2005 and sought for relief against the official respondents stating that they have been in possession and enjoyment of the land situated in S.No. 651 of Padamatipalem Village and they also made a representation to the Mandal Revenue Officer, Sangam Mandal, to consider their cases for assignment of lands to an extent of Ac. 00.50 cents, Ac. 00.70 cents and Ac. 00.50 cents situated in S.No. 651. Further they also stated that pending consideration of their representation, they sought to be evicted by the revenue authorities and accordingly, they requested that till the disposal of their representation, they may not be evicted from those lands. In the said Writ Petition, the petitioners therein, did not state that the subject matter of lands have not been

assigned. The grievance of the petitioners is that the Mandal Revenue Officer has already assigned the lands in the year 1989, but in view of the orders passed by this court in W.P.No. 4133 of 2005, the unofficial respondents are interfering with the peaceful possession and enjoyment of the petitioners. Their further grievance is that once the Government assigned particular lands in favour of the beneficiaries, the same cannot be assigned to the third party without canceling the earlier assignment.

Writ Petition No. 4133 of 2005 was disposed of with a direction to consider the representation of the petitioners therein, dated 25.4.2004, in terms of paragraph 10 of the Board Standing Order 15, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of that order. Aggrieved by the order, the present writ petition is filed by the petitioners stating that the order was obtained behind the back of the petitioners without making them as party respondents.

The grievance of the petitioners is that by virtue of the order passed by this court, respondents are taking steps to dispossess the petitioners from the said land, therefore, filed this writ petition to review the order passed in W.P.No. 4133 of 2005. They also relied on the judgment of the Division Bench, wherein the Division Bench held that there is no need to file an appeal against the earlier orders passed by this court.

In the earlier Writ Petition No. 4133 of 2005, it is asserted by the petitioners therein, that they are in possession of an extent of Ac. 00.70 cents situated in S.No. 651 and it is not clear from the facts stated by the petitioners herein, that they are in occupation of the above extent of Ac. 00.70 cents situated in S.No. 651 or not and it is also not evident that the respondents have taken any steps to consider the representation of the petitioners therein, as per the direction given by this court in W.P.No. 4133 of 2005.

In view of the above facts and circumstances, I deem it appropriate to direct the respondents to consider the case of the petitioners herein, along with the petitioners in W.P.No. 4133 of 2005, after giving an opportunity to the petitioners herein, and pass appropriate orders in accordance with law.

E. DHARMA RAO, J

DATE: 18/08/2005

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